

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

JAMES A. SOUDER and	:	C.A. No. 05cv493
LANA J. SOUDER	:	
	:	
v.	:	
	:	
ALABAMA MOTOR EXPRESS	:	
and ERIC M. BRION	:	

**REPORT OF RULE 26(f) MEETING**

In accordance with the provisions of Federal Rule of Civil Procedure 26(f), counsel for the parties conferred by phone on November 21, 2005 and submit the following report of their conference for the Court's consideration:

**1. Jurisdiction and Service**

This Court has jurisdiction as there exists diversity of citizenship of the parties and amount in controversy meets the jurisdictional amount of \$75, 000. pursuant to 28 U.S.C. § 1332(a).

**2. Substance of the Action--Discussion of Claims, Defenses and Relevant Issues**

This claim arises out of a highway accident on Route 896, in Middletown, Delaware. Defendant, Alabama Motor Express has admitted that Mr. Brion, at the time of the accident, was driving in the furtherance of the business of Alabama Motor Express.

**3. Identification of Issues**

The prime issues that are the subject of discovery involve the circumstances surrounding the accident, the negligence of the Defendants' driver, and the nature and extent of the Plaintiff's damages.

4. **Narrowing of Issues**

5. **Relief**

Plaintiff is asserting claims for pain and suffering associated with the injuries sustained in this accident, medical expenses and loss of consortium.

6. **Amendment of the Pleadings**

None known at this time.

7. **Joinder of Parties**

No.

8. **Discovery**

Rule 26(a) (1) disclosures have been completed by the Plaintiff and by the Defendants. Written discovery has been answered. Plaintiffs intend to depose defendant, Eric M. Brion. Defendants intend to depose plaintiffs and any life style witnesses named.

Expert Witness Disclosures With the concurrence of the Court, the parties are in agreement that Plaintiff's expert witness reports will be provided thirty days prior to the fact discovery deadline; Defendants' expert witness reports will be provided thirty days after the close of fact discovery deadline; and rebuttal expert witness reports will be provided within fifteen days before the close of discovery. Expert discovery will be completed within ninety days after the close of fact discovery.

Independent Medical Evaluations Defendants expect to obtain possibly three independent medical evaluations.

Discovery Deadline The parties are in agreement on fixing a discovery deadline of June 1, 2006.

**9. Estimated trial length**

The parties estimate that it will take 5 days for trial.

**10. Jury trial**

The parties wish to proceed with a jury trial.

**11. Settlement**

Plaintiff's demand is \$500,000. No offer has been made. Early Settlement or Resolution The parties have discussed early resolution through ADR. Both the Plaintiff and the Defendant are amenable to ADR providing that it is non binding, and provided the Defendant shall have the opportunity to obtain independent medical evaluations before entering into ADR. In addition, the parties would be amenable to mediation before Magistrate Judge Thygne.

**12. Other**

No.

MURPHY, SPADARO & LANDON

RAWLE & HENDERSON, LLP

BY: /s/ Chase Brockstedt  
Chase T. Brockstedt (3815)  
1011 Centre Road, Suite 210  
Wilmington, De 19805

Attorney for Plaintiffs

LAW OFFICES OF DAVID WINKLER

BY: /s/ David B. Winkler  
David B. Winkler  
1930 Route 70 East  
Building Q  
Cherry Hill, NJ 08003  
Attorney for Plaintiffs

BY: /s/ Delia A. Clark  
Delia A. Clark (3337)  
300 Delaware Avenue,  
Ste. 1015  
Wilmington, DE 19801  
Attorneys for Defendants  
Alabama Motor Express  
and Eric Brion